

01/16/02
J104 U.S. PTOPlease type a plus sign (+) inside this box →

01-22-

PTO/SB/05 (11-00)

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 499962000700

First Inventor NATHAN K. OLIVAS

Title PACER LETTUCE VARIETY

Express Mail Label No. EL 915 531 733 US

J104 U.S. PTO
01/16/02

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EL 915 531 733 US

Date of Deposit: January 16, 2002

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EL915531733US

CHASE J. TROMBELLA

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g. PTO/SB/17) (Submit an original, and a duplicate for fee processing) - 1 pg IN DUPL</p> <p>2. <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p>3. <input checked="" type="checkbox"/> Specification [Total Pages 19] <input type="checkbox"/></p> <p>(preferred arrangement set forth below)</p> <ul style="list-style-type: none"> - Descriptive title of the Invention - Cross Reference to Related Applications - Statement Regarding Fed sponsored R & D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (if filed) - Detailed Description - Claim(s) - Abstract of the Disclosure <p>4. <input checked="" type="checkbox"/> Drawing(s) (35 USC 113) [Total Sheets 1] <input type="checkbox"/></p> <p>5. <input type="checkbox"/> Oath or Declaration [Total Pages 2] <input type="checkbox"/></p> <p>a. <input checked="" type="checkbox"/> Newly executed (original or copy)</p> <p>b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional with Box 18 completed)</p> <p>i. <input checked="" type="checkbox"/> REQUEST FOR CORRECTION OF INVENTORSHIP 35 USC 116 & 37 CFR § 1.48(d) & (e) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR § 1.48(e) - COURTESY COPIES of Petition & Statement as filed 1/16/02 - 9 pgs</p> <p>6. <input checked="" type="checkbox"/> Application Data Sheet. See 37 CFR 1.76 - 2 pgs <input type="checkbox"/></p>	<p>7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)</p> <p>8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)</p> <p>a. <input type="checkbox"/> Computer Readable Form (CRF)</p> <p>b. <input type="checkbox"/> Specification Sequence Listing on: <ul style="list-style-type: none"> i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper </p> <p>c. <input type="checkbox"/> Statements verifying identity of above copies</p>
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ACCOMPANYING APPLICATION PARTS

<p>9. <input checked="" type="checkbox"/> Assignment Papers (cover sheet & document(s)) - 1 pg <input type="checkbox"/></p> <p>10. <input type="checkbox"/> 37 CFR 3.73(b) Statement (where there is an assignee) <input checked="" type="checkbox"/> Power of Attorney - 2 pgs</p> <p>11. <input type="checkbox"/> English Translation document (if applicable)</p> <p>12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations</p> <p>13. <input type="checkbox"/> Preliminary Amendment</p> <p>14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) Should be specifically itemized</p> <p>15. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign priority is claimed)</p> <p>16. <input type="checkbox"/> Request and Certification under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.</p> <p>17. <input checked="" type="checkbox"/> Other <input type="checkbox"/> SUBMISSION OF DATES OF FIRST SALE AND FIRST OFFER FOR SALE - 1 pg</p>
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18. If a CONTINUATING APPLICATION, check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

Continuation Divisional Continuation-in-part (CIP)

of prior application No. *

Prior application information

Examiner *

Group / Art Unit *

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. This incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

 Customer Number or Bar Code Labelor Correspondence address below

20872

PATENT TRADEMARK OFFICE

(Insert Customer No. or Attach bar code label here)

Name	MICHAEL R WARD (REG NO. 38,651)		
Address	MORRISON & FOERSTER LLP		
	425 Market Street		
City	San Francisco	State	CA
Country	U.S.A.	Telephone	415/268-6237
Name (Print/Type)	MICHAEL R. WARD	Registration No. (Attorney/Agent)	38,651
Signature	Michael R. Ward		
	Date January 16, 2002		

20/9T/I
JULY 2001
PTO

FEE TRANSMITTAL FOR FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT

(\$410.00)

Complete if Known	
Application Number	TO BE ASSIGNED
Filing Date	HEREWITH
First Named Inventor	Nathan K. OLIVAS
Examiner Name	To Be Assigned
Group Art Unit	To Be Assigned

Attorney Docket No. 499962000700

METHOD OF PAYMENT

1. The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 03-1952

Deposit Account Name Morrison & Foerster LLP

 Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 Applicant claims small entity status. See 37 CFR 1.272. Payment Enclosed: Check Credit Card Money Order Other

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$370.00)

2. EXTRA CLAIM FEES

Total Claims	10	-20** =	Extra Claims	Fee from below	Fee Paid
Independent Claims	1	-3** =	-0-	x \$9	= \$ -0-

Multiple Dependent

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claims, if not paid
109	84	209	42	*Reissue independent claims over original patent
110	18	210	9	*Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)-0-

** or number previously paid, if greater; For reissues, see above.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions of the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per properties (times number of properties)	\$40
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$40.00)

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Michael R. Ward	Registration No. (Attorney/Agent)	(38,651)	Telephone	(415) 268-6237
Signature	Michael R. Ward			Date	January 16, 2002

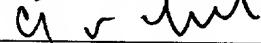
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CHASE J. TROMBELLA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Nathan K. OLIVAS, et al.

Serial No.: TO BE ASSIGNED

Filing Date: HEREWITH

For: PACER LETTUCE VARIETY

Examiner: TO BE ASSIGNED

Group Art Unit: TO BE ASSIGNED

**SUBMISSION OF DATES OF FIRST
SALE AND FIRST OFFER FOR SALE**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

As far as the undersigned can determine, the dates of first sale and first offer for sale for the lettuce variety, PACER, was as follows:

PACER

First Offer for Sale

August 14, 2000

First Sale

August 14, 2000

Dated: January 16, 2002

Respectfully submitted,

By:


Michael R. Ward
Registration No. (38,651)

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6237
Facsimile: (415) 268-7522

Please type a plus sign (+) inside this box → Approved for use through 10/31/02. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission

1

Attorney Docket No. 499963000700

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form - 1 page (in dup)	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Authorized to Charge Deposit Account	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declarations	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Request for Correction of Inventorship Pursuant to 35 U.S.C. 116 & 37 C.F.R. § 1.48(d) - 2 pages; Statement by Erroneously Named Inventor - 2 pages; and Postcard
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual Name	Morrison & Foerster LLP 425 Market Street, San Francisco, CA 94105-2842 Michael R. Ward (Reg. No. 38,651)
Signature	<i>Michael R. Ward</i>
Date	January 16, 2002

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

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Chase Trombella
Chase Trombella

Burden Hours Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

PATENT
Docket No. 499963000700

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

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Chaase Trombella

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

George D. Gibson

Serial No.: 60/262,308

Filing Date: 01/17/2001

For: NEW LETTUCE VARIETIES

**REQUEST FOR CORRECTION OF INVENTORSHIP
PURSUANT TO 35 U.S.C. 116 & 37 C.F.R. § 1.48(d)&(e)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

1. The presently named applicant, George D. Gibson, hereby petitions the Assistant Commissioner to enter the Amendment of the application submitted herewith to add the names of Nathan J. Olivas and Nathan K. Olivas as joint inventors and to remove George D. Gibson as an inventor.

Nathan J. Olivas and Nathan K. Olivas were erroneously omitted in the above application as co-inventors. George D. Gibson was erroneously named as an inventor. Under the present circumstances it is clear that Nathan J. Olivas and Nathan K. Olivas are the true inventors in this

case. The Patent and Trademark Office is respectfully requested to correct the inventorship.

This amendment has been promptly filed as soon as the inventorship error, made without deceptive intent, was discovered in the above application. In accordance with 37 CFR 1.48(d), the above statement of lack of deceptive intent regarding the addition of Nathan J. Olivas and Nathan K. Olivas is included in this Petition and is signed by Applicants' attorney. In accordance with 37 CFR 1.48(e), the statement of lack of deceptive intent regarding the deletion of George D. Gibson is attached.

2. The fee set forth in 37 C.F.R. § 1.17(q) of 130.00.

is enclosed

is authorized to be charged to Deposit Account 03-1952. A Fee Transmittal (form PTO/SB/17) is enclosed in duplicate for that purpose.

It is believed that applicant has complied with requirements and correction of the inventorship in the present application is respectfully requested.

Respectfully submitted,

Dated: January 16, 2002

By:

Michael R. Ward
Michael R. Ward
Registration No. 38,651
Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6237
Facsimile: (415) 268-7522

PATENT
Docket No. 499963000700

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Chase Trombella

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

George D. Gibson

Serial No.: 60/262,308

Filing Date: 01/17/2001

For: NEW LETTUCE VARIETIES

**STATEMENT BY ERRONEOUSLY NAMED INVENTOR
PURSUANT TO 35 U.S.C. 116 & 37 C.F.R. § 1.48(e)**

Assistant Commissioner for Patents
Washington, D.C. 20231

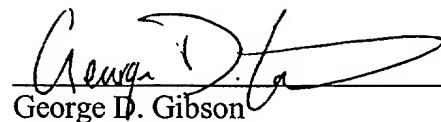
Dear Sir:

I, George D. Gibson, was originally named an inventor of the above-referenced application. After further discussions with our attorney, it has become clear that I was named an inventor in error. The inventorship error was made without deceptive intent. Under the present circumstances it is clear that Nathan J. Olivas and Nathan K. Olivas are the true inventors in this application, and the Patent and Trademark Office is respectfully requested to remove me as an inventor.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and

that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

11/11/02
Date


George D. Gibson

U.S. PATENT AND TRADEMARK OFFICE